

REMARKS

The Office Action dated July 6, 2007 has been read and carefully considered and the present amendment submitted to make certain clarification to the claim language to better define the present invention over the cited references.

In the Office Action, objections were made to various claims and all of those claims have now been amended to clear up those objections.

Claims 4 and 10-11 were rejected under 35 U.S.C. 112, second paragraph, and, again, it is believed that the amendments made herein have corrected that claim language.

Next, claims 1-6, 12 and 16-17 were rejected under 35 U.S.C. 103(a) as being unpatentable over Waddell et al, U.S. Patent 2,879,985 in view of Culp, U.S. Patent 3,608,882. Claims 8 and 19 were rejected under 35 U.S.C. 103(a) as being unpatentable over Waddell et al, U.S. Patent 2,879,985 in view of Culp, U.S. Patent 3,608,882 and further in view of Patois, Des. 381,176.

The loading dock guard of Waddell, (1959), a reference about 50 years old, is said to "provide a protective guard for a dock or warehouse platform wherein the guard is slidably mounted to freely move up and down as the truck is loaded or unloaded to avoid it being twisted loose from its mountings" (col.1, lines 34-38).

At the time the present invention was made, a person of ordinary skill in the art would not have had a reasonable expectation of success in modifying the necessarily large and cumbersome horizontal 1950's structure of Waddell to the compact improved structure as defined in claim 1. There is no teaching in either Waddell or Culp of a movable fender having an associated guide track that is both vertical and oriented longitudinally with respect to the fender.

It is further submitted that it would not have been obvious to arrive at the present invention as defined in claim 1 because too much modification is required to the structures of the cited references. The person of ordinary skill in the art would not have found it obvious to: firstly, move the loading dock guard of Waddell from a horizontal configuration to a vertical configuration and then, secondly, to rotate both of the now horizontally arranged bores through which the long rods or bolts 14 pass

through 90 degrees from their now horizontal orientation to a vertical one (or alternatively, to delete one of the bores and to rotate the other of the bores to a vertical orientation).

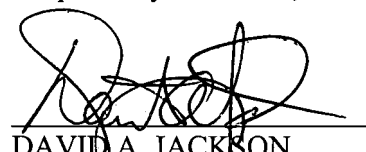
Furthermore, with the Waddell structure, the horizontal guard would generally engage the entire width of a truck's horizontal bumper. In contrast, the fender assembly of claim 1 is only contacted by a trailer or truck at a specific lateral location. In use, it is substantially perpendicular to the trailer or truck's bumper.

Therefore, in practice, it is advantageous to have two of the fender assemblies subject of claim 1 in laterally spaced apart positions. The person skilled in the art would not have found it obvious to rotate the single horizontal structure of Waddell to a vertical position and then to make all of the modifications discussed above to make it functionally equivalent to the fender assembly of claim 1 unless the person skilled in the art also would have thought to duplicate the structure to improve its functionality. In other words, a further inventive hurdle to the person skilled in the art would have been to realize that a vertically arranged fender assembly could be a step forward (the fender assemblies of claim 1 are best provided in pairs).

A new claim 23 has been added and which is similar to claim 1 but further includes a pair of laterally spaced apart parallel fender sub-assemblies. New dependent claims 24-26 are similar to claims 2-4 but depend upon new claim 23.

It is therefore submitted that the claims, as now amended, distinguish the present invention over the references of record and an allowance of the present patent application is respectfully solicited.

Respectfully submitted,



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